IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Bail Appl..No. 3378 of 2007()

CRIME NO.33/03 OF EXCISE RANGE, KOONI.

PETITIONER:

PADMINI @ PADMINIAMMA,
W/O.GOPALAKRISHNAN, PARAPATTU HOUSE,
VAZHAMUTTOM MURI, VLLIKKODE VILLAGE,
KOZHANCHERY TALUK,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.ABRAHAM SAMSON
SMT.LOVELY SAMSON

RESPONDENTS:

THE STATE OF KERALA REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
VADAKKEKKAD POLICE STATION, THRISSUR DISTRICT -
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3378 OF 2007

Dated this the 26th day of June, 2007

ORDER

The petitioner faces allegations in an abkari crime which is still under investigation. The report of the Chemical Examiner has been obtained. Final report has not been filed. The petitioner apprehends arrest at the hands of the Investigating Officers. She was not arrested at the time of detection as there was no woman police constable to facilitate such arrest. The petitioner, in these circumstances, has come to this Court with a prayer for anticipatory bail.

2. The learned counsel for the petitioner submits that the petitioner is facing misery in life. She is a widow and her mother is laid up. Her son is a mentally retarded person. In these circumstances, the petitioner prays that directions under Sec.438 of the Cr.P.C. may be issued in favour of the petitioner to save her from unnecessary arrest and

incarceration. All contentions raised by the petitioner including the fact that she was available for arrest and the Officers had not arrested her must be taken into consideration while passing an order on merits on the bail application.

3. I am of opinion that this is a fit case where the petitioner must appear before the learned Magistrate and make all these submissions. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge